

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NOTRHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

In re: ANITA M. BOUNINCONTRO,)	
)	
Debtor)	Case No 08-18264
)	
)	Chapter 13
)	
)	Judge Squires
)	

MOTION TO DISMISS

NOW COMES West Town Savings Bank, by Thomas Wilson Waters, one of its attorneys, and pursuant to Bankruptcy Rule 3015 (b), moves to Dismiss the above captioned Bankruptcy, and in support here of states as follows:

- 1. Debtor filed her Petition for relief pursuant to Chapter 13 of the Bankruptcy Act on July 21, 2008, without filing her Plan concurrently therewith.**
- 2. West Town Savings Bank is a creditor of the Debtor by reason of a Judgment of Foreclosure that was entered in favor of West Town savings Bank and against the Debtor and other named defendants on March 20, 2008 in the Circuit Court of Cook County, Illinois; which was styled as case No.: 07 CH 29196 (the "Cook County Litigation").**
- 3. Debtor's Plan under Chapter 13 was due to be filed on or before August 5, 2008.**
- 4. As of August 11, 2008, Debtor had still failed to file her Plan under Chapter 13, or move for an extension of time in which to do so.**
- 5. Debtor filed her petition two (2) days prior to the re-scheduled Foreclosure Sale on her real estate, which had been twice continued by West Town Savings Bank on representations of the Debtor that she was attempting to refinance her debt. West Town is owed \$194,716.74 as of the date of the Petition. Debtor has not since tendered any payments to West Town Savings Bank.**

6. A Chapter 13 debtor's failure to file a plan within 15 days after the Chapter 13 Petition was filed mandates a dismissal of the case absent any excuse for the failure. In re Maurice, 167 B.R. 114, as amended, modification denied, 179 B.R. 881, subsequently affirmed 69 F.3d 830, rehearing and suggestion for rehearing en banc denied 73 F.3d 134, on reconsideration (Bkrtcy.N.D.Ill.1994).

7. Pursuant to 735 ILCS 5/15-1507 of the Illinois Mortgage Foreclosure Act, the Foreclosure Sale in the Cook County Litigation must be conducted no later than August 21, 2008 in order to avoid re-publication of the Foreclosure Sale, which would result in a further delay of more than forty-five (45) days in conducting the Foreclosure Sale.

WHEREFOR, Creditor West Town Savings Bank respectfully requests this Honorable Court Enter an Order Dismissing the Petition of Debtor Anita M Buonincontro for failure to timely file a Plan under Chapter 13; and, to grant such further relief as this Court deems just in the premises.

Respectfully submitted,
West Town Savings Bank

By: /S/ Thomas Wilson Waters
Thomas Wilson Waters
one of its attorneys

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